

## NARUC Resolutions Support Informed Customer Choice

At its recently concluded winter meetings in Washington, D.C., NARUC passed two resolutions that support electricity service providers sharing information with customers.

In one resolution, NARUC's Executive Committee points its member commissions and other policy makers who are exploring or adopting retail access programs toward a newly drafted NARUC white paper entitled "Statement of Issues and Options on Customer Choice." That white paper was developed by NARUC's Committee on Electricity working in cooperation with the Ad Hoc Committee on Consumer Affairs. Recognizing that industry/customer relationships are changing, the paper provides a listing of the possible methods for addressing the following issues without recommending any particular options:

- customer service quality standards,
- customer education and information (including options for information on suppliers fuel source and emissions, the format of electricity bills, and billing procedures),

- customer access to service (including universal service, continuity of service, and disconnection and termination procedures, especially as related to low-income customers),
- fair business practices (advertising, protections from slamming and cramming),
- dispute resolution,
- customer privacy, and
- compliance (enforcement of consumer protection laws).

In another resolution, NARUC urges DOE's Energy Information Administration (EIA) to end the disparate treatment of utility and non-utility generators by requiring ALL generators to submit basic unit- and plant-specific information needed for state regulatory purposes, for national environmental efforts, and for customer disclosure of air emissions and fuel mix. This resolution was passed in response to the solicitation by EIA for comments concerning the confidentiality treatment that will be given to electric power data collected in surveys conducted by EIA.

## Attorneys General Endorse Principles for Electric Industry Restructuring

During a hearing in San Francisco on January 29, 1998 on how electric industry restructuring will affect the role of state Attorneys General (AGs), the AGs from seven states unveiled a series of principles that they said will protect consumers and businesses as states consider electric utility industry restructuring. The AGs urged any state legislatures considering restructuring legislation to incorporate these principles into their legislative packages.

"Ten states, including California, have already passed legislation. We have looked carefully at these laws and believe that the principles we are proposing today can protect consumers and businesses throughout the country as the competitive revolution in the electric industry spreads," said Wisconsin AG James Doyle, who currently serves as

President of the National Association of Attorneys General (NAAG).

The AGs identified five key "principles" to consider as the restructuring debate continues throughout the nation:

### • NAAG Task Force To Create Green Marketing Guidelines

NAAG's Consumer Protection Committee will launch a task force to recommend language requiring disclosure when green power or marketing claims are used by electric utility providers. While taking no position on the environmental benefits of different types of power sources, the AGs emphasized that every state should ensure that consumers understand the exact nature of any green

(continued on page 8)

## Hold May 13-14 For Important Conference

The National Council on Competition and the Electric Industry is sponsoring a **National Executive Dialogue on Consumer Information Disclosure on May 13-14, 1998** in Chicago, IL. The Council has undertaken a multi-part research effort aimed at providing regulators, legislators, and others with the information needed to design and implement consumer information disclosure programs. This Dialogue will review the research and explore the most important policy and technical issues with national experts, market participants, and public sector decisionmakers. Registration information can be obtained online at the National Council's web page.

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from Stephen Wiel

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# From the Executive Director

## Protecting Small Customers

*The National Council too is in the forefront of the public discussion of consumer protection issues. Our upcoming National Executive Dialogue promises to bring the most contentious of these issues to a head.*

Stephen Wiel

Email: [swiel@lbl.gov](mailto:swiel@lbl.gov)

Phone: 510/486-5396

Fax: 510/486-6996

As we proceed increasingly further into a restructured electric industry, one issue is appearing ever more prominent -- attention to protecting small customers.

Our lead cover story highlights NARUC's new resolutions that support informed consumer choice. We also describe the intense attention to the need for new consumer protections in the electricity sector by the National Association of Attorneys General (NAAG). In response to concerns about the potential for abusive marketing practices, not only is NAAG promoting its five principles for state legislative restructuring packages, it has also issued a Consumer Alert that provides tips for consumers so that they "don't get zapped by power scams." In response to the question: how can you avoid potential scams and abuses, NAAG's Consumer Alert offers consumers the following advice:

### **Don't Get Zapped by "Slamming"**

The Alert lists the steps that consumers can take if they believe they have been slammed by an electricity supplier.

### **Beware of Can't-Lose Money-Making Schemes**

NAAG warns consumers to be careful about getting drawn into a "multi-level marketing" plan. Consumers should be cautious about paying an up-front fee to participate in an over-hyped marketing scheme touting claims of enormous profits. Consumers should be skeptical and do their own homework!

### **Read the Fine Print**

Before consumers sign up, they should get the information in writing. They shouldn't jump at the first telephone or direct mail offer that comes their way. They should take the time to compare the terms with their existing service. Reputable companies will provide written materials explaining their services and costs.

### **Demand Your Rights on the Phone**

The Alert lists the rights that consumers have when called by a telemarketer.

### **Compare Service and Repair Reliability**

The Alert lists some important questions consumers should ask before choosing a local electricity provider.

The National Council too is in the forefront of the public discussion of consumer protection issues. The disclosure-series publications listed on page 6 (and more are forthcoming) show the level of research conducted by the Council over the past several years, as do several articles in past Council Newsletters. Our upcoming National Executive Dialogue on Consumer Information Disclosure (see notice on page 1) promises to bring the most contentious of these issues to a head. Should electricity providers be required to disclose certain information to their customers? What information? Only price? Fuel mix too? Air emissions? In what format? With what penalties for false claims? Come to Chicago in May and help shape the future of information disclosure in the electric industry.

# Councilmember Profile

## Commissioner Bob Anderson



Bob Anderson got interested in energy policy when he studied physical chemistry in graduate school in the early 1970s. He thought the second law of thermodynamics provided an elegant approach to issues like coal development in the northern great plains, energy conservation, renewable resource development, and consideration of environmental externalities. Boy was he naive. Undaunted, he wound up with a career (although more influenced by Brownian movement than the second law) in energy policy.

In the late 1970s, during the high time of the Arab oil embargoes, he headed Montana's Energy Division, with responsibility for major facility siting, energy conservation, renewables R&D, and fuel allocation. He chaired Western SUN, a Carter-era solar commercialization program for the 13 western states.

In the 1980s, Anderson returned to his roots — Yellowstone. He was the founding board chair and the first executive director of the Greater Yellowstone Coalition, a citizens group which strives to bring the concept of ecosystem management to Yellowstone National Park and the surrounding lands.

In 1990 he ran successfully for a seat on Montana's Public Service Commission. There, his goals have been to protect consumers and lower the barriers to energy conservation and renewable resources. He chaired the PSC in 1993-94 and was re-elected to the Commission in 1994.

Active in NARUC, the national association of state utility regulators, he served as chair of its Subcommittee on Environment, chair of its Executive Committee, and, in 1995, as its President. As a member of the Committee on

Energy Conservation, now Energy Resources and Environment, he has tried to sustain "public values" like efficiency, renewables, protection for low-income consumers and the environment as the electricity industry is restructured.

Said Anderson, "As NARUC president, I got it to look in the mirror and decide what it wanted to be when it grew up." (NARUC was 106 years old at the time). "We revised our constitution and turned more attention to Capitol Hill."

On the Advisory Council of the Electric Power Research Council, Anderson focused on the challenge of sustaining "public purpose" R&D in the emerging competitive worlds of electricity and natural gas. He chaired the group that organized the Executive Dialog on Public Interest Research and Development held in St. Louis in October 1997.

One of Anderson's noteworthy achievements was serving as midwife for the birth of the National Council. He participated in the 1994 Whitefish, Montana retreat where the idea was born, then chaired the Steering Committee that launched the Council and has since served on that committee.

Said Anderson, "Electric industry reform is on the front burner in Montana. We're the first low-cost state to launch into these uncharted waters. Some of us worry about the risk of exposing our low-cost resources to the regional market. Others feel we're being the masters of our destiny. It's exciting and challenging to try to steer this old boat through the white water of restructuring to an unknown destiny."

Not all regulators look and act alike. Anderson is the one with the frisbee.

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# Administration and Governance Models for Restructured Energy Efficiency Programs

During the past decade, many state PUCs developed policies that gave utilities a central role in pursuing energy-efficiency objectives. Utilities have assumed responsibility for such activities as general administration, program design, implementation (parts of which were often contracted out, such as audit services), program evaluation, and cost recovery. But, with the advent of retail competition, state policymakers and regulators have been reassessing whether to continue a central role for utilities in managing ratepayer-funded energy efficiency subject to regulatory oversight or move instead toward other models of administration and governance of publicly funded energy-efficiency activities.

While the National Council supports the inclusion of mechanisms to support the continuation of public benefit programs in state restructuring regulations and legislation, the Council recognizes that different situations call for different solutions. The Council's knowledge of activities in various states and its familiarity with the funding options associated with various mechanisms enable it to offer technical assistance (through telephone consultations, site visits, or provision of reports) to states and regions on which models best suit

their particular circumstances.

The two major institutional alternatives that have been proposed involve (1) vesting authority to administer programs in existing or newly created governmental agencies or (2) creating nonprofit corporations or authorities with Boards of Directors. In these alternative models, the role of the distribution utility in energy efficiency is much more limited. The utility may only be responsible for collecting a public benefits charge which is transferred to the administrative control of the third-party agent or the utility may continue to design and implement a limited set of energy-efficiency programs. In a number of states, the issue of whether utilities should continue their central role in ratepayer-funded energy efficiency subject to regulatory oversight has been particularly contentious. Illustrated here are the administrative and governance models that several states and regions have created or re-affirmed for publicly funded energy-efficiency activities.

Figure 2. New York Public Purpose Programs

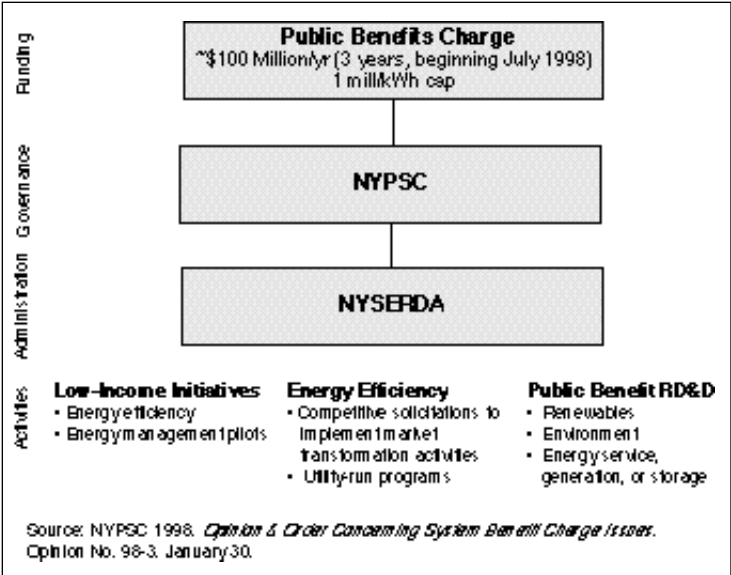
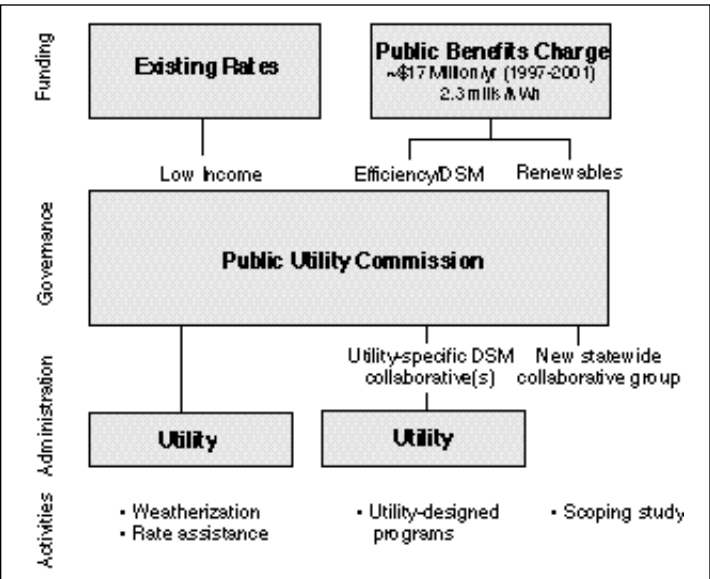


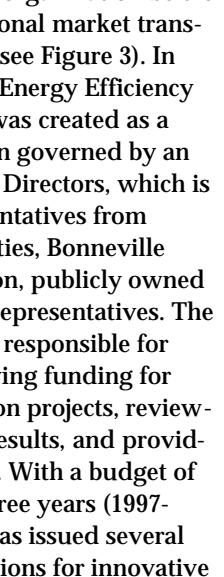
Figure 1. Rhode Island Public Purpose Programs



than 2.3 mills per kWh for energy efficiency and renewables as part of electric industry restructuring. Approximately \$17 million/year will be collected under this charge. However, the PUC essentially decided to maintain the status quo for energy efficiency in terms of administration and governance with the utilities continuing to administer programs, subject to PUC oversight (see Figure 1). The mix of programs and designs will be determined by DSM collaboratives that involve major stakeholders.

**New York:** Earlier this year, the New York Public Service Commission (NYSC) established a system benefits charge (SBC) and policies and administrative structures to continue public purpose programs during the transition period for industry restructuring. The NYSC designated the New York Energy Research and Development Authority (NYSEDA), an existing nonprofit entity, as a statewide administrator for public purpose funds (see Figure 2). The NYSC concluded that statewide, third-party administration would result in more efficient management of SBC funds and ensure that funds would be administered in a competitively neutral manner. The NYSC ordered utilities to enter into contracts

states in this region (WA, OR, ID, MT) spend about 3% of revenues on public benefit programs plus funding to maintain low-income services. For energy efficiency, the NWPPC suggested that about 70 to 75% of the funds be targeted towards local efforts administered by local utilities, subject to regulatory oversight, and that a nonprofit organization be cre-



**Pacific Northwest:** The approach being taken in the Pacific Northwest represents an interesting hybrid model: a new institutional structure has been developed for certain energy-efficiency activities that are thought to be most efficiently developed at a regional level in parallel with utility administration of other efforts whose benefits are primarily local. In its Comprehensive Review of Northwest Energy Systems, the Northwest Power Planning Council (NWPPC) recommended that the four

**California:** With the passage of comprehensive electricity restructuring legislation in 1996 (AB1980), the California Legislature signaled that four public purpose activities would no longer necessarily be administered by IOUs. The Legislature approved authorization for IOU

[Analysis of State Models drawn from “Ratepayer-Funded Energy-Efficiency Programs in a Restructured Electricity Industry: A Guide for Regulators and Legislators” by Joseph Eto and Chuck Goldman (LBNL) and Steven Nadel (ACEEE)]

Funding	<b>Public Benefits Charge</b> ~\$1.9 Billion total (1998-2001) ~3 mills/kWh			
Governance	Energy Efficiency CPUC	Low Income	Renewables	Public Good R&D
Administration	California Board for Energy Efficiency (\$872M) Independent Administrators	Low Income Governing Board (\$160M) Independent Administrators	CEC (\$540M) Public Interest Benefit Research Technologies Fund	CEC (\$347M) Public Interest R&D Program Fund
Activities	<ul style="list-style-type: none"> <li>Market Transformation</li> <li>Vibrant energy efficiency services market</li> <li>Upstream Market</li> </ul>	<ul style="list-style-type: none"> <li>Energy efficiency Weatherization</li> <li>CARE (rate assistance)</li> </ul>	<ul style="list-style-type: none"> <li>Existing (45%)</li> <li>New (30%)</li> <li>Emerging (10%)</li> <li>Customer side education (15%)</li> </ul>	<ul style="list-style-type: none"> <li>End use efficiency</li> <li>Renewable energy technologies</li> <li>Environmentally preferred advanced generation</li> <li>Environmental research</li> <li>Strategic energy research</li> </ul>

# National Council Publications on Electric Industry Restructuring

## Research Reports

*Federal, State, and Local Tax Implications of Electric Industry Restructuring* (Deloitte & Touche, 1996)

*Assessing Impacts of Restructuring on Small Business, Residential, and Low-Income Customers* (Roger D. Colton, 1996)

*The Unintended Impacts of Restructuring* (Dave Schoengold, 1996)

*The Organization of Competitive Wholesale Power Markets and Spot Price Pools* (Paul A. Centolella, 1996)

*Stranded Benefits in Electric Utilities Restructuring* (Nancy Brockway & Michael Sherman, 1996)

*The British Electric Utility Restructuring Experience: History and Lessons for the U.S.* (Michael C. Brower, Stephen D. Thomas, & Catherine Mitchell, 1996)

*Regulation and Competition Without Privatization: Norway's Experience* (Jan Moen & Jan Hamrin, Printed in *The Electricity Journal*, March 1996)

*Public Interest Research and Development in the Electric and Gas Utility Industries* (Carl Blumstein, Richard, Scheer, and Stephen Wiel, 1998)

## Briefing Papers

*Customer Choice* (Cheryl Harrington, 1996)

*Electric Utility Transition Costs* (Eric Hirst & Lester Baxter, 1996)

*Market Power in the Electric Utility Industry: An Overview* (William Shepherd, 1997)

*State Decisions Affecting Nuclear Power in the Restructuring Process* (William B. Marcus, 1997)

*Regional Issues in Restructuring the Electric Industry* (Sue Tierney, forthcoming Spring 1998)

## Disclosure Series

*Full Environmental Disclosure for Electricity: Tracking and Reporting Key Information* (David Moskovitz et al., July 1997)

*Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups* (Alan S. Levy et al., July 1997)

*Disclosure of Fuel Mix and Emissions by Electric Retail Service Providers: Confidentiality vs. the Public's Right to Know* (Scott Hempling, July 1997)

*Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups, Report 2—West Coast* (Mario Teisel et. al., 1997)

*Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups, Report 3—Rocky Mountain West* (Lynn Halverson & Edward Holt, 1997)

*Uniform Consumer Disclosure Standards for New England: Report and Recommendations to the New England Utility Regulatory Commissions* (Tom Austin et al., 1998)

## Other

*A Glossary of Restructuring Terms*

National Council Publications are available from our web site (<http://eetd.lbl.gov/National Council/>) or in print from:

	Email	Phone	Fax
Ann Thompson at NARUC	annthom@naruc.org	202/898-2210	202/898-2213
Matthew Brown at NCSL	matthew.brown@ncsl.org	303/830-2200	303/863-8003

# Noteworthy News Items

## Securitization Consultant Chosen

The National Council has selected the law firm of Jones, Day, Reavis, and Pogue to prepare a white paper on securitization. The paper will explain the process of securitization and explore the public policy implications of its use as a mechanism for recovering stranded costs and financing rate reductions in the transition to competitive electricity markets. This important paper is expected to be drafted in the spring of 1998.

## Energy RD&D in Restructured Utility Markets

Events over the next 6-9 months could foreshadow much about the future of energy RD&D in a restructured utility industry. In the Federal arena, for example, DOE will be seeking a \$338 million increase in energy RD&D funding for fiscal year 1999, with much of the proposed increase geared toward climate change objectives. The consideration of this request by the 105th Congress will produce valuable insight into the likely directions and priorities of Federal energy R&D funding over the next several years. While the Congress is considering DOE request, the Electric Power Research Institute (EPRI) will be developing a set of plans for electricity RD&D based on the results of an extensive, industry-wide technology road mapping exercise. The EPRI Road Map(s) will likely contain perspectives on the future of public interest RD&D in the restructured electric power business.

[Rich Scheer, Energetics]

## NAAG Members at Work

In late January, California Attorney General Dan Lungren filed a lawsuit against Boston-Finney, a Pennsylvania-based company that sought to enter California's deregulated electricity market. The action alleged that Boston-Finney had made numerous misleading and untrue statements in its efforts to sign up distributors and customers. The complaint also alleged that the marketing structure the company established violates California laws prohibiting the use of "endless chain" or "pyramid" market schemes. In his complaint against Boston-Finney, Lungren alleged that the company has made numerous misleading statements about the benefits it will provide to customers who switch to Boston-Finney and the reasons for such benefits. The complaint seeks an injunction to halt the continuation of the use of misleading representations, to prevent the use of an endless chain marketing scheme, as well as restitution and civil penalties in the amount of \$1.5 million. Not long afterwards Boston-Finney decided to withdraw from the California power market.



Just one week after NAAG's Hearing in San Francisco on January 29, 1998, and with his state's electric market officially open to competition on March 1, Massachusetts Attorney General Scott Harshbarger proposed regulations to protect consumers from several types of abusive practices: bait and switch tactics, slamming, and redlining. Penalties would be set at \$5,000 per offense. The regulations would also spell out when electric

providers would be allowed to call their energy "earth friendly" or "green."

## LEAP Letter Highlights

The Jan/Feb 98 LEAP Letter features a "Guest Perspective" by attorney Kathleen O'Reilly on improving state approaches for small customer retail choice of electricity suppliers based on the telephone industry experience in moving to long distance competition choice.

A total of 133 state bills and resolutions on electricity issues were active in legislatures in Jan. and Feb. with legislation moving in Virginia, New Hampshire and Connecticut. State legislators, however, held off on restructuring bills in Colorado, Indiana, New Mexico, and Wyoming.

The latest LEAP Letter also features information on the life cycle costs of renewable electricity in Rhode Island and Massachusetts. A report from the Rhode Island Energy Collaborative shows a potential of 600 MW by 2002 in the two states. Both states enacted restructuring laws with system benefit charges to fund renewables with a renewable portfolio standard also enacted in Massachusetts last November.

For more information on the LEAP Letter or its electronic LEAPNet service call 614/888-7785 or visit the web site at <http://www.spratley.com>

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power marketing claims, thus reducing the potential for deception by companies selling power.

- **Require Written Authorization to Prevent Slamming**

Slamming, the switching of your utility provider without your consent, has been a significant problem in the telecommunications industry. In order to prevent this problem from occurring in the electric industry, the AGs support a law that requires any utility provider to get written authorization from a consumer before service can be switched to that provider.

- **Adequate Enforcement Staff Needed**

As competition develops, rip-off artists and scam operators will try to take advantage of the market for electric industry revenues. AGs must have the necessary tools to enforce the law in this newly competitive industry. The State of Illinois has provided one model to follow. In their restructuring legislation, the Illinois legislature created a new unit within the attorney general's office to handle electric utility industry consumer protection issues.

- **States Should Not Be Preempted By Federal Action**

Because energy requirements, sources of power supply, climate differences, and cost of providing service vary widely from state to state and because consumer protection issues demand a local focus to be most effective, the AGs strongly oppose any attempts at the federal level to preempt state governments' authority to enforce consumer protection and antitrust laws in the states.

- **Consumer Education**

Consumers should be involved in the restructuring legislation discussion. Restructuring legislation should provide funding to decrease consumer susceptibility to and strong protection against discriminatory, deceptive, and fraudulent business practices.

"If states follow these principles they will go a long way toward preventing slamming, encouraging alternative energy use, and creating a strong competitive environment for consumers and businesses," Doyle said.

The National Association of Attorneys General is the membership organization of the Attorneys General of the 50 states. NAAG assists Attorneys General in fulfilling the responsibilities of their offices and assists in the delivery of high-quality legal services to the states and territories.

## Upcoming Meetings/Conferences

National Executive Dialogue on Consumer Information Disclosure.  
Sponsored by the National Council on Competition and the Electric Industry. May 13-14, 1998, Chicago, IL  
National Council on Competition and the Electric Industry—Steering Committee Meeting. May 15, 1998. Chicago, IL.

## National Council

The National Council on Competition and the Electric Industry is a partnership of the associations of the decision-makers who are directly responsible for restructuring the electric industry (NARUC and NCSL, with participation by FERC, DOE, and EPA) to provide high-quality and timely information about restructuring. The mission of the National Council is to facilitate collaboration between state legislators and state regulators in order to better protect the public interest as the U.S. power sector is restructured.

NARUC Commissioners		NCSL Legislators	
Richard Cowart (Chair), Vermont		Mark Montigny (Vice Chair), Massachusetts	
Bob Anderson, Montana		Michael Sanchez, New Mexico	
Craig Glazer, Ohio		Byron Sher, California	
Marsha Smith, Idaho		Paul Tonko, New York	
Susan Clark, Florida		Pete Ernaut, Nevada	
FERC		DOE	
Chairman James Hoecker		Diane Pirkey	
		David Meyer	
		EPA	
		Jan McFarland	

The National Council's new consolidated web site is being developed at:  
<http://eetd.lbl.gov/NationalCouncil/>

Further information about the National Council is available from:

Stephen Wiel, Executive Director

Lawrence Berkeley National Laboratory

Email: [swiel@lbl.gov](mailto:swiel@lbl.gov)

Phone: 510/486-5396

Fax: 510/486-6996

This Newsletter, *Re:Structuring*, is published in this 8-page format three times a year by the National Council. Its goal is to provide summaries of the Council's activities and highlight noteworthy developments around the country that may affect electric industry restructuring.

Suggestions for news items and announcements are welcome. Contact the editor:

Stuart Chaitkin, Assistant to the Executive Director

Lawrence Berkeley National Laboratory

Email: [sdchaitkin@lbl.gov](mailto:sdchaitkin@lbl.gov)

Phone: 510/486-6990

Fax: 510/486-6996

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